

**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

CITY OF CINCINNATI,	:	Case No. A 1905588
Plaintiff,	:	Judge Wende C. Cross
	:	Magistrate Anita P. Berding
	:	<u>MAGISTRATE'S ORDER ON</u>
	:	<u>DEFENDANT JOHN C.</u>
	:	<u>KLOSTERMAN'S MOTIONS</u>
vs.	:	
	:	
	:	
	:	
JOHN KLOSTERMAN,	:	
Defendant, et al.	:	
	:	

FILED

**CLERK OF COURTS
HAMILTON COUNTY, OH
COMMON PLEAS**

2021 NOV -3 PM 3:55

This matter comes before the Court for hearing on October 12, 2021, on all pending motions. Before the Court are the following motions which are fully briefed and ready for decision: (1) "Defendant's Motion to Stay Further Action" filed February 28, 2020; (2) "Defendant's Request for Audit of Management Company Financial Reports" filed March 8, 2021; (3) "Defendant's Request for Motion to Stay or Continue in Proceedings" filed April 30, 2021; (4) "Defendant's Motion to Compel Receiver, Richard Boydston/Konza, LLC to Turn over Requested Business Documents Without Further Delay" filed June 10, 2021; (5) "Defendant's Motion for Expedited Hearing to Judge Wende Cross's Court to Render an Answer on Defendant Klosterman's Motions of September 2020, and "Appeal Magistrate's

EXHIBIT

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D13555923

Orders of June 3, 2021 and Move the Continuance Requested by the City of Cincinnati to Judge Cross's Court for a New Court Date in Order to Hear all Motions to Expedite this Case" filed on June 10, 2021; and (6) "Motion to Ask that this Court Rule on all of the Defendant's Motions in Absentee and Motion to Ask the Court to Accept the Additional Reasons for the Immediate Removal of Receiver and Joseph Lentine and TSO" filed September 2, 2021. The Court, having reviewed the fully briefed motions, and having reviewed the docket, denies Defendant's motions.

Pro se civil litigants "are bound by the same rules and procedures as those litigants who retain counsel." Obasogie v. Obasogie, 1st Dist. Hamilton No. C-170096, 2018 Ohio App. LEXIS 1985, AT *2 (May 9, 2018), citing Meyers v. First Nat'l Bank, 3 Ohio App. 3d 209, 210, 444 N.E.2d 412 (1st Dist. 1981). The Ohio Supreme Court has interpreted R.C. 2735.04 as "enabling the trial court to exercise its sound judicial discretion to limit or expand a receiver's powers as it deems appropriate." Celebreeze v. Gibbs (1991), 60 Ohio St.3d 69, 74, 573 N.E.2d 62. A reviewing court will not disturb the trial court's judgment absent a clear abuse of discretion. See Park Nat'l Bank v. Cattani, Inc., 187 Ohio App. 3d 186, 190. An abuse of discretion is more than an error of law; rather, it suggests that the trial court's decision is unreasonable, arbitrary, or unconscionable. Nat'l City Bank v. Semco, Inc., 183 Ohio App. 3d 229, 232, 2009 Ohio 3319, 916 N.E.2d 857, citing Blakemore v. Blakemore (1983), 5 Ohio St.3d 217, 219, 5 Ohio B. 481, 450 N.E.2d 1140.

The Court reviewed Defendant's Motion to Stay Further Action filed February 28, 2020. The Court finds the motion is not well-taken and is denied as moot.

The Court reviewed "Defendant's Request for Audit of Management Company Financial Reports" filed March 8, 2021, the "Objection by Receiver to Defendant John Klosterman's Motion for Audit of Tristate Organization, Inc." filed March 15, 2021, and "Defendant's Answer to Receiver for Audit of Management Company Tristate Organization Inc. DBA Joseph Lentine" filed April 12, 2021., Having reviewed these filings and, finding the Receiver made the redacted business records available to the Defendant's representatives at the TSO's office and made copies of requested documents, and finding the Receiver has filed monthly reports with this Court relating to the operating expenses of the receivership, this Court finds no authority to request an audit and hereby denies the Defendant's Motion for an Audit..

The Court reviewed "Defendant's Request For Motion to Stay or Continue in Proceedings filed April 30, 2021" and "Receiver's Memorandum in Opposition to April 30, 2021, the Motion by Defendant John Klosterman" filed May 11, 2021, and finding this matter has been pending for two years, finds the Receiver has made the records available to the Defendant, and the Court finds no reason to stay the proceedings, and hereby denies the Motion to Stay the Proceedings.

The Court reviewed "Defendant's Motion to Compel Receiver, Richard Boydston/Konza,LLC to Turn over Requested Business Documents Without Further

Delay" filed June 10, 2021; "Defendant's Motion for Expedited Hearing to Judge Wende Cross' Court to Render an Answer on Defendant Klosterman's Motions of September 2020, Appeal Magistrate's Orders of June 3, 2021 and Move the Continuance Requested by the City of Cincinnati to Judge Cross's Court for a New Court Date in order to Hear all Motions to Expedite this Case" filed on June 10, 2021; and "Memorandum of Receiver in Opposition to Motion by Defendant John Klosterman to Compel" filed on June 21, 2021. For all the above already stated reasons, the Court denies Defendant's Motions. Defendant's Motion to Compel and to Remove and Appeal Magistrate's Order of June 3, 2021, to Reconsider Removal of the Receiver has already been denied by this Court's Entry of August 17, 2021, and Defendant's Motion to Move all Motions to be heard in front of Judge Cross are denied. The City of Cincinnati's Motion for Summary Judgment was granted after a hearing at which Defendant Klosterman was present. The Magistrate's Decision was later entered on September 8, 2021, and the Judgment Adopting the Magistrate's Decision and Foreclosure Decree was entered by the Court on October 7, 2021.

The Court reviewed "Defendant's Motion to ask that this Court Rule on all of the Defendant's Motions in Absentee and Motion to ask the Court to Accept the Additional Reasons for the Immediate Removal of Receiver and Joseph Lentine and TSO" filed September 2, 2021, and Defendant's October 14, 2021 untitled filing. Finding no legal grounds for relief, the Court denies Defendant Klosterman's

September 2, 2021 Motion and his filing from October 14, 2021 to the extent it is a motion.

The Court reviewed Defendant's "Motion for Continuance" filed on September 22, 2021, the "Memorandum in Opposition to Defendant's Motion for Continuance" filed September 27, 2021 by the City of Cincinnati, and the reply in support of his motion for continuance filed by Defendant Klosterman on October 14, 2021. The Court finds that the date being requested to be continued was a submission date for the Entry Adopting Magistrate's Decision on Summary Judgment and not a hearing date, and therefore the Court denies the Defendant's Motion.

IT IS SO ORDERED.



Anita P. Berding
Magistrate Anita P. Berding

PREPARED AND SUBMITTED:

/s/Tina F. Woods

Tina Woods, Esq.
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NOTICE

Copies of this Order have been mailed to the parties or their counsel. This Order is effective immediately. Either party may appeal this Order by filing a Motion to Set the Order Aside within ten days of the date this Order is filed. The pendency of a Motion to Set the Order Aside does not stay the effectiveness of this Order unless the Magistrate or Judge grants a stay.

CC:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING ORDER HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR ATTORNEYS AS PROVIDED ABOVE.

Date: 7-3 Deputy Clerk: WLS